

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

## UNITED STATES DISTRICT COURT

for the

District of Nebraska

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEBRASKA

2022 APR 25 PM 12:10

OFFICE OF THE CLERK

JOHN JAMES CERVANTES

Case No.

8:22cv160

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

BRYAN WAUGH, DENNIS BYRNE, MICHAEL YOUNG

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: (check one) ☒ Yes ☐ No

## COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

RECEIVED

APR 25 2022

U.S. DISTRICT COURT

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	JOHN JAMES CERVANTES		
Address	1920 15th AVENUE #16		
	KEARNEY	NE	68845
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	BUFFALO		
Telephone Number	308-233-1518		
E-Mail Address			

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

**Defendant No. 1**

Name	BRYAN WAUGH		
Job or Title <i>(if known)</i>	CHIEF OF POLICE		
Address	2025 AVENUE A		
	KEARNEY	NE	68847
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	BUFFALO		
Telephone Number	308-237-2104		
E-Mail Address <i>(if known)</i>			
<input checked="" type="checkbox"/> Individual capacity <input type="checkbox"/> Official capacity			

**Defendant No. 2**

Name	MICHAEL YOUNG		
Job or Title <i>(if known)</i>	POLICE CAPTAIN		
Address	2025 AVENUE A		
	KEARNEY	NE	68847
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	BUFFALO		
Telephone Number	308-237-2104		
E-Mail Address <i>(if known)</i>			
<input checked="" type="checkbox"/> Individual capacity <input type="checkbox"/> Official capacity			

## Defendant No. 3

Name

DENNIS BYRNE

Job or Title (if known)

LIEUTENANT OF POLICE

Address

2025 AVENUE A

KEARNEY

NE

68847

City

State

Zip Code

County

BUFFALO

Telephone Number

308-237-2104

E-Mail Address (if known)



Individual capacity



Official capacity

## Defendant No. 4

Name

Job or Title (if known)

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)



Individual capacity



Official capacity

## II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

My Second Amendment Right to Keep and Bear arms was violated

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Bryan Waugh as Chief of Police, Michael Young as Police Captain and Dennis Byrne as Lieutenant all acted under color of law when they knowing, willingly and maliciously denied my Nebraska Firearms Purchase Permit

### III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

2025 Avenue A, Kearney Nebraska at the Police Headquarters

- B. What date and approximate time did the events giving rise to your claim(s) occur?

October 2nd, 2019 and December 21st, 2021

- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

I was denied a Firearm Purchase Permit on two (2) separate occasions, once in 2019 and then again in 2021. In both incidents I met all state, federal and local requirements to obtain said permit and was ultimately denied both times due to "special circumstances" as I was told by the Chief of Police. I appealed the decision from 2021 to the local courts and was awarded a reversal of Kearney Police Departments malicious decision. I then made a complaint to the Kearney Police Department on said manner on 03/08/2022. I also made a Request for Open Public Records on the issuance of Firearm Purchase Permits to the City of Keraney on 03/14/2022. On 03/16/2022 I recieved my requested information which states that the city of Kearney has no ordinances only guidelines for the issuance of firearm permits, which after reviewing revealed I had met all guidelines. I was advised by Chief Waugh that "special circumstances" played a part in both denials in which he informed me he was a part of. This is a "clearly established protected right" that was violated intentionally by (3) separate officers acting under color of law.

**IV. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

**V. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I would like the (3) defendants held accountable and ask that the court for punitive damages for my time and the stress this has caused me.



**VI. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

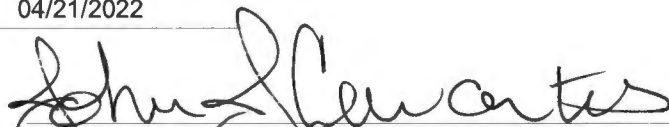
**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 04/21/2022

Signature of Plaintiff

Printed Name of Plaintiff

  
John J. Carter

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

From: John J. Genovates  
1920 15th Ave #16  
Kearney NE  
68845



**RECEIVED**

APR 25 2022

CLERK  
U.S. DISTRICT COURT

**ReadyPost**

Document Mail

To: U.S. Courthouse  
111 South 18th St  
Omaha NE  
68102

